# **EXHIBIT D**

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1
                IN THE UNITED STATES DISTRICT COURT
                               FOR THE
 2
                   SOUTHERN DISTRICT OF NEW YORK
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       THE EXPORT IMPORT BANK OF
       THE REPUBLIC OF CHINA,
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                     Plaintiff,
 6
                                   ) Civil Action
                                   ) No. 97 CIV 3090
                VS.
 7
       REPUBLIQUE du NIGER,
 8
                     Defendant. )
9
10
11
                THE DEPOSITION OF JAMES E. NEVLING,
12
       taken before Cordelia Busse Wert, a Certified
13
       Shorthand Reporter and Notary Public within and
14
       for the State of Illinois, taken pursuant to the
15
       provisions of the Federal Rules of the United
       States District Courts pertaining to the taking of
16
17
       depositions, taken at One South Dearborn Street,
18
       Suite 3800, Chicago, Illinois, at the hour of
19
       approximately 9:32 a.m. on November 11, 2014.
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22
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24
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## CONTAINS CONFIDENTIAL PORTIONS The Export Import Bank, et al. v. Republique du Niger

11/11/2014

7 (Pages 22 to 25)

	22		24
1 .	A. I couldn't swear to any individual	1	SOPAMIN?
2	names.	2	A. No. In truth, not.
3	BY MR. SUMMIT:	3	Q. Did you have an understanding during
4	Q. Okay.	4	the period of negotiations with SOPAMIN as to
00:28:06 5	A. I know they had legal counsel at one	00:31:26 5	whether SOPAMIN was a governmental entity or a
6	point. I know they had a finance guy at one	6	nongovernmental entity?
7	point. I don't know either of their names.	7	MR. CROKE: Objection, calls for a
8	Q. Now, were the legal counsel Nigerien?	8	legal conclusion.
9	A. Yes.	9	BY MR. SUMMIT:
00:28:22 10	Q. And the financial guy was Nigerien?	00:31:34 10	Q. But I think he's saying you can answer
11	A. Yes.	11	it anyway.
12	Q. So far as you know, were they counseled	12	MR. CROKE: You can answer it.
13	at all in connection with this first agreement	13	BY THE WITNESS:
14	that we've marked as Exhibit 6 by US counsel or	14	A. Did I have an understanding?
00:28:54 15	financial advisors?	00:31:40 15	BY MR. SUMMIT:
16	MR. CROKE: Objection to form. What do	16	Q. Yes.
17	you mean by "were they counseled"?	17	A. It was plain that they were affiliated
18	MR. SUMMIT: Well, I'll I think it's	18	in some fashion with the government.
19	clear, but let me rephrase it.	19	Q. And what made you derive that
	BY MR. SUMMIT:	00:31:58 20	conclusion? What brought you to that conclusion?
21 22	Q. So far as you know, did US counsel play	21 22	A. It was the meeting with the Mines
22	any role at all on their behalf, on SOPAMIN's	22	Minister. It seemed to get relatively high-level
	1 1 16 1		
23 24	behalf, in connection with the first agreement?  A. I'm not aware of any US counsel that	23 24	attention, the potential deal.  Q. How do you know that? How do you know
23			
23			
23	A. I'm not aware of any US counsel that		Q. How do you know that? How do you know
23 24	A. I'm not aware of any US counsel that	24	Q. How do you know that? How do you know
23 24	A. I'm not aware of any US counsel that 23 played a role.	24	Q. How do you know that? How do you know ${25} \\$ it was getting high-level attention?
23 24 1 2	A. I'm not aware of any US counsel that  23 played a role. Q. Okay. And the same question as to	24 1 2	Q. How do you know that? How do you know 25 it was getting high-level attention?  A. Well, I mean, he's the Minister of a
23 24 1 2 3	A. I'm not aware of any US counsel that  23  played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on	24 1 2 3	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm
23 24 1 2 3 4	A. I'm not aware of any US counsel that  23  played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on behalf SOPAMIN?	1 2 3 4	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm reasonably confident that I haven't met with a
23 24 1 2 3 4 00:29:28 5	A. I'm not aware of any US counsel that  23  played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on behalf SOPAMIN?  A. I'm not aware of any US financial	1 2 3 4 00:32:48 5	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm reasonably confident that I haven't met with a Cabinet Minister from any of my other suppliers.
23 24 1 2 3 4 00:29:28 5 6 7 8	A. I'm not aware of any US counsel that  23  played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on behalf SOPAMIN?  A. I'm not aware of any US financial advisors.  Q. Okay. And during your two trips there, did you meet any did you meet the Minister of	24 1 2 3 4 00:32:48 5 6 7 8	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm  reasonably confident that I haven't met with a Cabinet Minister from any of my other suppliers.  Q. Who are your other suppliers, if I may
23 24 1 2 3 4 00:29:28 5 6 7	A. I'm not aware of any US counsel that  23  played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on behalf SOPAMIN?  A. I'm not aware of any US financial advisors.  Q. Okay. And during your two trips there,	24 1 2 3 4 00:32:48 5 6 7	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm reasonably confident that I haven't met with a Cabinet Minister from any of my other suppliers.  Q. Who are your other suppliers, if I may ask?
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23 24 24 1 2 3 4 00:29:28 5 6 7 8 9 00:29:50 10	A. I'm not aware of any US counsel that  23  played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on behalf SOPAMIN?  A. I'm not aware of any US financial advisors.  Q. Okay. And during your two trips there, did you meet any did you meet the Minister of Mines for Niger?  A. Yes.  Q. Do you recall his name?	24 1 2 3 4 00:32:48 5 6 7 8 9 00:33:04 10 11	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm reasonably confident that I haven't met with a Cabinet Minister from any of my other suppliers.  Q. Who are your other suppliers, if I may ask?  A. Oh.  MR. CROKE: Objection to the form. Other suppliers for what? BY MR. SUMMIT:
23 24 24 1 2 3 4 00:29:28 5 6 7 8 9	A. I'm not aware of any US counsel that  23  played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on behalf SOPAMIN?  A. I'm not aware of any US financial advisors.  Q. Okay. And during your two trips there, did you meet any did you meet the Minister of Mines for Niger?  A. Yes.	24 1 2 3 4 00:32:48 5 6 7 8 9 00:33:04 10	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm reasonably confident that I haven't met with a Cabinet Minister from any of my other suppliers.  Q. Who are your other suppliers, if I may ask?  A. Oh.  MR. CROKE: Objection to the form. Other suppliers for what?
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23 24 24 1 2 3 4 00:29:28 5 6 7 8 9 00:29:50 10 11 12 13 14	A. I'm not aware of any US counsel that  23  played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on behalf SOPAMIN?  A. I'm not aware of any US financial advisors.  Q. Okay. And during your two trips there, did you meet any did you meet the Minister of Mines for Niger?  A. Yes.  Q. Do you recall his name?  A. Mohamed Abdoulahi.	24 1 2 3 4 00:32:48 5 6 7 8 9 00:33:04 10 11 12 13 14	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm reasonably confident that I haven't met with a Cabinet Minister from any of my other suppliers.  Q. Who are your other suppliers, if I may ask?  A. Oh.  MR. CROKE: Objection to the form. Other suppliers for what?  BY MR. SUMMIT: Q. I assume we're talking about
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23 24 24 3 4 00:29:28 5 6 7 8 9 00:29:50 10 11 12 13 14 00:30:08 15 16 17	A. I'm not aware of any US counsel that  23  played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on behalf SOPAMIN?  A. I'm not aware of any US financial advisors.  Q. Okay. And during your two trips there, did you meet any did you meet the Minister of Mines for Niger?  A. Yes.  Q. Do you recall his name?  A. Mohamed Abdoulahi.  Q. And correct me if I'm wrong, but I think the spelling is M-O-H-A-M-E-D and A-B-D-O-U-L-A-H-I.  And what were the circumstances under which you met Mr. Abdoulahi?	24  1 2 3 4 00:32:48 5 6 7 8 9 00:33:04 10 11 12 13 14 00:33:12 15 16 17	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm reasonably confident that I haven't met with a Cabinet Minister from any of my other suppliers.  Q. Who are your other suppliers, if I may ask?  A. Oh.  MR. CROKE: Objection to the form. Other suppliers for what? BY MR. SUMMIT:  Q. I assume we're talking about A. Uranium. Q uranium, the technical term being triuranium A. Triuranium octoxide. Q octoxide. Thank you.
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23 24 24 2 3 4 00:29:28 5 6 7 8 9 00:29:50 10 11 12 13 14 00:30:08 15 16 17 18 19 00:30:38 20	A. I'm not aware of any US counsel that  23  played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on behalf SOPAMIN?  A. I'm not aware of any US financial advisors.  Q. Okay. And during your two trips there, did you meet any did you meet the Minister of Mines for Niger?  A. Yes.  Q. Do you recall his name?  A. Mohamed Abdoulahi.  Q. And correct me if I'm wrong, but I think the spelling is M-O-H-A-M-E-D and A-B-D-O-U-L-A-H-I.  And what were the circumstances under which you met Mr. Abdoulahi?  A. We went to his office. He expressed some satisfaction that we were there to do business directly and not through Areva.	24  1 2 3 4 00:32:48 5 6 7 8 9 00:33:04 10 11 12 13 14 00:33:12 15 16 17 18 19 00:33:28 20	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm reasonably confident that I haven't met with a Cabinet Minister from any of my other suppliers.  Q. Who are your other suppliers, if I may ask?  A. Oh.  MR. CROKE: Objection to the form. Other suppliers for what?  BY MR. SUMMIT:  Q. I assume we're talking about A. Uranium. Q uranium, the technical term being triuranium A. Triuranium octoxide. Q octoxide. Thank you.  Who are the other suppliers to Exelon? I just I just would like to get a sense of the landscape here of the other suppliers to Exelon of
23 24 24 3 4 00:29:28 5 6 7 8 9 00:29:50 10 11 12 13 14 00:30:08 15 16 17 18 19 00:30:38 20 21	played a role.  Q. Okay. And the same question as to financial advisors, any US financial advisors on behalf SOPAMIN?  A. I'm not aware of any US financial advisors.  Q. Okay. And during your two trips there, did you meet any did you meet the Minister of Mines for Niger?  A. Yes.  Q. Do you recall his name?  A. Mohamed Abdoulahi.  Q. And correct me if I'm wrong, but I think the spelling is M-O-H-A-M-E-D and A-B-D-O-U-L-A-H-I.  And what were the circumstances under which you met Mr. Abdoulahi?  A. We went to his office. He expressed some satisfaction that we were there to do business directly and not through Areva.  Q. Did Exelon in connection with this	24  1 2 3 4 00:32:48 5 6 7 8 9 00:33:04 10 11 12 13 14 00:33:12 15 16 17 18 19 00:33:28 20 21	Q. How do you know that? How do you know  25  it was getting high-level attention?  A. Well, I mean, he's the Minister of a Government Ministries Cabinet Minister. I'm reasonably confident that I haven't met with a Cabinet Minister from any of my other suppliers.  Q. Who are your other suppliers, if I may ask?  A. Oh.  MR. CROKE: Objection to the form. Other suppliers for what?  BY MR. SUMMIT:  Q. I assume we're talking about A. Uranium. Q uranium, the technical term being triuranium A. Triuranium octoxide. Q octoxide. Thank you.  Who are the other suppliers to Exelon? I just I just would like to get a sense of the landscape here of the other suppliers to Exelon of U308.

#### CONTAINS CONFIDENTIAL PORTIONS The Export Import Bank, et al. v. Republique du Niger

11/11/2014

8 (Pages 26 to 29)

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	26		28
1	contracts with Tenex which is the Russians. We	1	MR. SUMMIT: Yes.
2	have contracts with Rio Tinto from mining projects	2	BY THE WITNESS:
3	in Australia. We have contracts with Cameco from	3	A. No. And I know that's going to sound
4	Canada. And there are a number of intermediary	4	perhaps a little bit strange, but we were signing
00:34:16 5	firms.	00:37:50 5	up for essentially market-priced pounds, and so we
6	Q. Okay.	6	were actually somewhat indifferent whether they
7	A. Brokers, traders, and so forth.	7	were actually going to perform or not. If they
8	Q. That's helpful.	8	did perform, great. If they didn't perform, our
9	During the period from 2007 to the	9	hearts were not going to be broken and we would
00:34:30 10	present, where on the scale of magnitude has the	00:38:16 10	chalk it up to experience and move on.
11	Nigerien supply of U308 ranked among the suppliers	11	BY MR. SUMMIT:
12	to Exelon?	12	Q. So the meeting with the Minister of
13	A. To Exelon? They're essentially one of	13	Mines, was there one meeting or multiple meetings?
14	our second-tire suppliers. So this represents	14	A. Really just one.
00:34:56 15	six, eight, ten percent of our annual purchases.	00:38:36 15	Q. When you say "really just one," does
16	Q. Wow.	16	that mean just one?
17	A. It's a small market. So there aren't	17	A. Just one.
18	that many suppliers.	18	Q. All right. And to the best how long
19	Q. But in terms of dollar in terms of	19	did it last?
00:35:18 20	the expenditure on U308 by Exelon	00:38:46 20	A. Ten minutes.
21	A. Uh-huh.	21	Q. And to the best of your knowledge, who
		22	was present, to the best of your recollection?
22	Q the supply from SOPAMIN is six to		
22 23	Q the supply from SOPAMIN is six to ten percent; am I understanding that correctly?	23	A. I don't really have a specific
		23 24	A. I don't really have a specific recollection of who was in the room.
23	ten percent; am I understanding that correctly?  A. I think that's roughly correct.		recollection of who was in the room.
23	ten percent; am I understanding that correctly?		
23	ten percent; am I understanding that correctly?  A. I think that's roughly correct.		recollection of who was in the room.
23 24	ten percent; am I understanding that correctly?  A. I think that's roughly correct.	24	recollection of who was in the room.
23 24	ten percent; am I understanding that correctly?  A. I think that's roughly correct.  27  Q. That's interesting.	24	recollection of who was in the room. $\label{eq:29} 29$ Q. Is that the only time that you have
23 24 1 2	ten percent; am I understanding that correctly?  A. I think that's roughly correct.  27  Q. That's interesting.  A. Probably rank them third or fourth or	24 1 2	recollection of who was in the room.  29  Q. Is that the only time that you have ever met with this particular Minister of Mines or
23 24 1 2 3	ten percent; am I understanding that correctly?  A. I think that's roughly correct.  27  Q. That's interesting.  A. Probably rank them third or fourth or fifth, maybe.	1 2 3	recollection of who was in the room.  29  Q. Is that the only time that you have ever met with this particular Minister of Mines or any Minister of Mines of Niger?
23 24 1 2 3 4	ten percent; am I understanding that correctly?  A. I think that's roughly correct.  27  Q. That's interesting.  A. Probably rank them third or fourth or fifth, maybe.  Q. Got you.	1 2 3 4	recollection of who was in the room.  29  Q. Is that the only time that you have ever met with this particular Minister of Mines or any Minister of Mines of Niger?  A. Yes.
23 24 1 2 3 4 00:35:46 5	ten percent; am I understanding that correctly?  A. I think that's roughly correct.  27  Q. That's interesting.  A. Probably rank them third or fourth or fifth, maybe.  Q. Got you.  Now, to return to Niamey, your meetings	1 2 3 4 00:39:22 5	Q. Is that the only time that you have ever met with this particular Minister of Mines or any Minister of Mines of Niger?  A. Yes.  Q. To the best of your knowledge, was
23 24 1 2 3 4 00:35:46 5 6	ten percent; am I understanding that correctly?  A. I think that's roughly correct.  27  Q. That's interesting.  A. Probably rank them third or fourth or fifth, maybe.  Q. Got you.  Now, to return to Niamey, your meetings in Niamey, did the Minister of Mines attend any of	24 1 2 3 4 00:39:22 5	Q. Is that the only time that you have ever met with this particular Minister of Mines or any Minister of Mines of Niger?  A. Yes. Q. To the best of your knowledge, waswithdrawn.
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## CONTAINS CONFIDENTIAL PORTIONS The Export Import Bank, et al. v. Republique du Niger

11/11/2014

11 (Pages 38 to 41)

	38		40
1 .	what has now been marked as Exhibit 7?	1	the event that there's some sort of difficulty
2	A. No, I have not.	2	with that, we'll accept other material as long as
3	Q. Okay. All right.	3	we're not disadvantaged.
4	MR. CROKE: Just to clarify, Exhibit 7	4	Q. Got you.
00:52:32 5	is including $$ is both the actual letter and	00:55:16 5	A. So this spells out the terms under
6	then a translation that you	6	which equivalent material could be sourced.
7	MR. SUMMIT: Yes.	7	Q. Understood.
8	MR. CROKE: as counsel had made by	8	In practice, in the execution of this
9	presumably a translator?	9	contract, did concentrates come from sources other
00:52:42 10	MR. SUMMIT: Yes.	00:55:44 10	than Niger?
11	MR. CROKE: Okay.	11	A. Yes.
12	MR. SUMMIT: Not an official	12	Q. What sources?
13	translator; someone who speaks French	13	A. If you go and you look at the
14	MR. CROKE: Understood.	14	documentation attached for the invoicing, you'll
00:52:48 15	MR. SUMMIT: and English.	00:55:52 15	see a number of sources, most of which are
16	BY MR. SUMMIT:	16	affiliates of Areva. Part of this relates to the
17	Q. Okay. Returning to the contract again,	17	prior conversation about the difficulties of
18	let me ask you this. Looking for a moment at $3.2$ ,	18	physically moving the material.
19	Production Page 51?	19	Q. Yeah.
00:53:20 20	A. Uh-huh.	00:56:06 20	A. In practice, material from Niger is
21	Q. The introductory sentence there,	21	shipped to France, it goes to a convertor in
22	"SOPAMIN will deliver Concentrates of Nigerien	22	France in its own account, and SOPAMIN would then
23	origin except that SOPAMIN may deliver	23	arrange to exchange material in France for
	origin except that SOPAMIN may deliver Concentrates of a different origin subject to the	23 24	arrange to exchange material in France for material either at Cameco or ConverDyn where I
23	Concentrates of a different origin subject to the		material either at Cameco or ConverDyn where I
23	Concentrates of a different origin subject to the		
23 24	Concentrates of a different origin subject to the	24	material either at Cameco or ConverDyn where I
23 24 1 2	Concentrates of a different origin subject to the 39 following conditions," and then it lists a bunch of conditions.	24 1 2	material either at Cameco or ConverDyn where I  41 needed it. Then in that way someone in North America saves themselves the expense of shipping
23 24 1 2 3	Concentrates of a different origin subject to the  39  following conditions," and then it lists a bunch of conditions.  Focusing first on the concentrates of	1 2 3	material either at Cameco or ConverDyn where I  41  needed it. Then in that way someone in North America saves themselves the expense of shipping stuff to France and they save themselves the
23 24 1 2 3 4	Concentrates of a different origin subject to the  39  following conditions," and then it lists a bunch of conditions.  Focusing first on the concentrates of Nigerien origin, was it your understanding that	1 2 3 4	material either at Cameco or ConverDyn where I  41  needed it. Then in that way someone in North America saves themselves the expense of shipping stuff to France and they save themselves the expense of shipping material in France to North
23 24 1 2 3 4 00:53:50 5	Concentrates of a different origin subject to the  39  following conditions," and then it lists a bunch of conditions.  Focusing first on the concentrates of Nigerien origin, was it your understanding that those were going to come from a particular mine	1 2 3 4 00:56:38 5	material either at Cameco or ConverDyn where I  41  needed it. Then in that way someone in North  America saves themselves the expense of shipping stuff to France and they save themselves the expense of shipping material in France to North  America. It's a very common practice in the
23 24 1 2 3 4 00:53:50 5	Concentrates of a different origin subject to the  39  following conditions," and then it lists a bunch of conditions.  Focusing first on the concentrates of Nigerien origin, was it your understanding that those were going to come from a particular mine within Niger?	24 1 2 3 4 00:56:38 5	material either at Cameco or ConverDyn where I  41  needed it. Then in that way someone in North  America saves themselves the expense of shipping stuff to France and they save themselves the expense of shipping material in France to North  America. It's a very common practice in the industry.
23 24 1 2 3 4 00:53:50 5 6 7	Concentrates of a different origin subject to the  39  following conditions," and then it lists a bunch of conditions.  Focusing first on the concentrates of Nigerien origin, was it your understanding that those were going to come from a particular mine within Niger?  A. Two.	24 1 2 3 4 00:56:38 5 6	material either at Cameco or ConverDyn where I  41  needed it. Then in that way someone in North America saves themselves the expense of shipping stuff to France and they save themselves the expense of shipping material in France to North America. It's a very common practice in the industry.  Q. Are uranium concentrates do you know
23 24 1 2 3 4 00:53:50 5 6 7 8	Concentrates of a different origin subject to the  39  following conditions," and then it lists a bunch of conditions.  Focusing first on the concentrates of Nigerien origin, was it your understanding that those were going to come from a particular mine within Niger?  A. Two.  Q. Two mines. What were the names of	24 1 2 3 4 00:56:38 5 6 7 8	material either at Cameco or ConverDyn where I  41  needed it. Then in that way someone in North America saves themselves the expense of shipping stuff to France and they save themselves the expense of shipping material in France to North America. It's a very common practice in the industry.  Q. Are uranium concentrates do you know the term fungible?
23 24 1 2 3 4 00:53:50 5 6 7 8 9	Concentrates of a different origin subject to the  39  following conditions," and then it lists a bunch of conditions.  Focusing first on the concentrates of Nigerien origin, was it your understanding that those were going to come from a particular mine within Niger?  A. Two.  Q. Two mines. What were the names of those mines?	24 1 2 3 4 00:56:38 5 6 7 8 9	material either at Cameco or ConverDyn where I  41  needed it. Then in that way someone in North America saves themselves the expense of shipping stuff to France and they save themselves the expense of shipping material in France to North America. It's a very common practice in the industry.  Q. Are uranium concentrates do you know
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23 24 1 2 3 4 00:53:50 5 6 7 8 9 00:54:00 10 11	Concentrates of a different origin subject to the  39  following conditions," and then it lists a bunch of conditions.  Focusing first on the concentrates of Nigerien origin, was it your understanding that those were going to come from a particular mine within Niger?  A. Two.  Q. Two mines. What were the names of those mines?  A. They are Akouta, A-K-O-U-T-A, and Arlit, A-R-L-I-T.	24 1 2 3 4 00:56:38 5 6 7 8 9 00:56:50 10 11	material either at Cameco or ConverDyn where I  41  needed it. Then in that way someone in North America saves themselves the expense of shipping stuff to France and they save themselves the expense of shipping material in France to North America. It's a very common practice in the industry.  Q. Are uranium concentrates do you know the term fungible?  A. Yes, I do, and they are. Q. Okay.  MR. CROKE: Do you want to take a break
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23 24  24  1 2 3 4 00:53:50 5 6 7 8 9 00:54:00 10 11 12 13 14 00:54:26 15 16 17 18 19 00:54:50 20 21	Concentrates of a different origin subject to the  39  following conditions," and then it lists a bunch of conditions.  Focusing first on the concentrates of Nigerien origin, was it your understanding that those were going to come from a particular mine within Niger?  A. Two.  Q. Two mines. What were the names of those mines?  A. They are Akouta, A-K-O-U-T-A, and Arlit, A-R-L-I-T.  Q. Have you ever visited those mines?  A. I have not. I've meant to for a long time, but right now, not safe.  Q. Yeah.  A. Not even close to safe.  Q. Okay. And was there why did you anticipate, as you apparently did in this contract, that there was a possibility that some of the uranium concentrate might not come from those two mines?	24  1 2 3 4 00:56:38 5 6 7 8 9 00:56:50 10 11 12 13 14 00:57:06 15 16 17 18 19 00:57:18 20 21	material either at Cameco or ConverDyn where I  41  needed it. Then in that way someone in North America saves themselves the expense of shipping stuff to France and they save themselves the expense of shipping material in France to North America. It's a very common practice in the industry.  Q. Are uranium concentrates do you know the term fungible?  A. Yes, I do, and they are. Q. Okay.  MR. CROKE: Do you want to take a break or anything?  THE WITNESS: I'm good.  MR. SUMMIT: Thank you. I'd like to take a break in five or ten minutes.  THE WITNESS: That's fine.  MR. SUMMIT: But we're making good headway.  BY MR. SUMMIT:  Q. So in 4.2 A. Uh-huh.
23 24  24  1 2 3 4 00:53:50 5 6 7 8 9 00:54:00 10 11 12 13 14 00:54:26 15 16 17 18 19 00:54:50 20	Concentrates of a different origin subject to the  39  following conditions," and then it lists a bunch of conditions.  Focusing first on the concentrates of Nigerien origin, was it your understanding that those were going to come from a particular mine within Niger?  A. Two.  Q. Two mines. What were the names of those mines?  A. They are Akouta, A-K-O-U-T-A, and Arlit, A-R-L-I-T.  Q. Have you ever visited those mines?  A. I have not. I've meant to for a long time, but right now, not safe.  Q. Yeah.  A. Not even close to safe.  Q. Okay. And was there why did you anticipate, as you apparently did in this contract, that there was a possibility that some of the uranium concentrate might not come from those two mines?  A. This is actually relatively standard	24  1 2 3 4 00:56:38 5 6 7 8 9 00:56:50 10 11 12 13 14 00:57:06 15 16 17 18 19 00:57:18 20	material either at Cameco or ConverDyn where I  41  needed it. Then in that way someone in North America saves themselves the expense of shipping stuff to France and they save themselves the expense of shipping material in France to North America. It's a very common practice in the industry.  Q. Are uranium concentrates do you know the term fungible?  A. Yes, I do, and they are. Q. Okay.  MR. CROKE: Do you want to take a break or anything?  THE WITNESS: I'm good.  MR. SUMMIT: Thank you. I'd like to take a break in five or ten minutes.  THE WITNESS: That's fine.  MR. SUMMIT: But we're making good headway.  BY MR. SUMMIT:  Q. So in 4.2
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## CONTAINS CONFIDENTIAL PORTIONS The Export Import Bank, et al. v. Republique du Niger

11/11/2014

17 (Pages 62 to 65)

	62		64
1	A. I don't know.	1	roughly, "We understand the material is currently
2	Q. Okay.	2	at Comurhex under SOMAIR's account and that it is
3	A. I haven't yeah.	3	ready to be transferred."
4	Q. Did Moussa Harouna assist you and Brown	4	Can you help us out by telling us what
01:45:40 5	and LaSalle when you were negotiating the	01:48:16 5	Comurhex is and SOMAIR?
6	contract?	6	A. Okay. Comurhex is a French conversion
7	A. He did not.	7	facility.
8	Q. Why did you include him on this email,	8	Q. Is it run by Areva
9	if you recall?	9	A. It is.
01:45:56 10	A. I don't recall.	01:48:28 10	Q or somebody else? Okay.
11	Q. Okay. The letter you will see in	11	A. SOMAIR is the mining company that
12	Production Pages 173 to 174, there's a letter	12	operates the Arlit Mine.
13	appears to be a letter in French from you to	13	O. Is SOMAIR affiliated with Areva?
14	SOPAMIN.	14	A. It is.
01:46:18 15	Who drafted this letter in French?	01:48:52 15	Q. Okay. So and then continuing on, it
16	A. There was a translator who was hired to	16	makes reference you make reference to
17	do the translation.	17	Urangesellschaft, U-R-A-N-G-E-S-E-L-L-S-C-H-A-F-T.
18	Q. Got you. So you drafted it in English	18	What is that entity?
19	and then it was translated?	19	A. Despite the German name, that's also an
01:46:28 20	A. Correct.	01:49:28 20	Areva affiliate, and that is their trading
21	Q. Okay. And as you'll see, I think, we	21	organization.
22	have an informal translation of that letter	22	Q. Okay. And in the interests of time, it
			might be simplest if you would just summarize for
23	attached to the exhibit. Do you see that?	23	
23	A. Uh-huh.	23 24	us in simple terms how this particular first
24	A. Uh-huh.	24	us in simple terms how this particular first
	A. Uh-huh.  63  Q. And, you know, I think for our present		us in simple terms how this particular first 65 delivery was transpiring.
24	A. Uh-huh.	24	us in simple terms how this particular first 65 delivery was transpiring.
24 1 2	A. Uh-huh.  63  Q. And, you know, I think for our present purposes, the informal translation is adequate. I	24 1 2	us in simple terms how this particular first  65  delivery was transpiring.  A. Right. So SOPAMIN was going to make arrangements to deliver to UG in France, and UG
1 2 3	A. Uh-huh.  63  Q. And, you know, I think for our present purposes, the informal translation is adequate. I just have a few questions about some of the	1 2 3	us in simple terms how this particular first  65  delivery was transpiring.  A. Right. So SOPAMIN was going to make
1 2 3 4	A. Uh-huh.  63  Q. And, you know, I think for our present purposes, the informal translation is adequate. I just have a few questions about some of the references within the letter.	1 2 3 4	us in simple terms how this particular first  65  delivery was transpiring.  A. Right. So SOPAMIN was going to make arrangements to deliver to UG in France, and UG was going to make deliveries to us at ConverDyn.
24 1 2 3 4 01:47:00 5	A. Uh-huh.  63  Q. And, you know, I think for our present purposes, the informal translation is adequate. I just have a few questions about some of the references within the letter.  MR. CROKE: And just before you do	1 2 3 4 01:50:12 5	us in simple terms how this particular first  65  delivery was transpiring.  A. Right. So SOPAMIN was going to make arrangements to deliver to UG in France, and UG was going to make deliveries to us at ConverDyn.  Q. ConverDyn in Canada?
24 1 2 3 4 01:47:00 5 6	A. Uh-huh.  63  Q. And, you know, I think for our present purposes, the informal translation is adequate. I just have a few questions about some of the references within the letter.  MR. CROKE: And just before you do that, I just want the record to reflect that	24 1 2 3 4 01:50:12 5	us in simple terms how this particular first  65  delivery was transpiring.  A. Right. So SOPAMIN was going to make arrangements to deliver to UG in France, and UG was going to make deliveries to us at ConverDyn.  Q. ConverDyn in Canada?  A. In the United States.
24 1 2 3 4 01:47:00 5 6 7	A. Uh-huh.  63  Q. And, you know, I think for our present purposes, the informal translation is adequate. I just have a few questions about some of the references within the letter.  MR. CROKE: And just before you do that, I just want the record to reflect that we've had no chance to confirm whether or not	24 1 2 3 4 01:50:12 5 6 7	us in simple terms how this particular first  65  delivery was transpiring.  A. Right. So SOPAMIN was going to make arrangements to deliver to UG in France, and UG was going to make deliveries to us at ConverDyn.  Q. ConverDyn in Canada?  A. In the United States.  Q. In the United States. Where in the
24 1 2 3 4 01:47:00 5 6 7 8	A. Uh-huh.  63  Q. And, you know, I think for our present purposes, the informal translation is adequate. I just have a few questions about some of the references within the letter.  MR. CROKE: And just before you do that, I just want the record to reflect that we've had no chance to confirm whether or not this is a correct interpretation.	24 1 2 3 4 01:50:12 5 6 7 8	us in simple terms how this particular first  65  delivery was transpiring.  A. Right. So SOPAMIN was going to make arrangements to deliver to UG in France, and UG was going to make deliveries to us at ConverDyn.  Q. ConverDyn in Canada?  A. In the United States.  Q. In the United States. Where in the United States?
24 1 2 3 4 01:47:00 5 6 7 8 9	A. Uh-huh.  Q. And, you know, I think for our present purposes, the informal translation is adequate. I just have a few questions about some of the references within the letter.  MR. CROKE: And just before you do that, I just want the record to reflect that we've had no chance to confirm whether or not this is a correct interpretation.  MR. SUMMIT: I appreciate that. And	24 1 2 3 4 01:50:12 5 6 7 8 9	us in simple terms how this particular first  65  delivery was transpiring.  A. Right. So SOPAMIN was going to make arrangements to deliver to UG in France, and UG was going to make deliveries to us at ConverDyn.  Q. ConverDyn in Canada?  A. In the United States.  Q. In the United States. Where in the United States?  A. The very southern tip of Illinois.
24 1 2 3 4 01:47:00 5 6 7 8 9 01:47:10 10	A. Uh-huh.  Q. And, you know, I think for our present purposes, the informal translation is adequate. I just have a few questions about some of the references within the letter.  MR. CROKE: And just before you do that, I just want the record to reflect that we've had no chance to confirm whether or not this is a correct interpretation.  MR. SUMMIT: I appreciate that. And you reserve all rights	24 1 2 3 4 01:50:12 5 6 7 8 9 01:50:24 10	delivery was transpiring.  A. Right. So SOPAMIN was going to make arrangements to deliver to UG in France, and UG was going to make deliveries to us at ConverDyn.  Q. ConverDyn in Canada?  A. In the United States.  Q. In the United States. Where in the United States?  A. The very southern tip of Illinois.  Q. So the physical concentrate was being
24 1 2 3 4 01:47:00 5 6 7 8 9 01:47:10 10 11	Q. And, you know, I think for our present purposes, the informal translation is adequate. I just have a few questions about some of the references within the letter.  MR. CROKE: And just before you do that, I just want the record to reflect that we've had no chance to confirm whether or not this is a correct interpretation.  MR. SUMMIT: I appreciate that. And you reserve all rights  MR. CROKE: Yes.	24 1 2 3 4 01:50:12 5 6 7 8 9 01:50:24 10 11	delivery was transpiring.  A. Right. So SOPAMIN was going to make arrangements to deliver to UG in France, and UG was going to make deliveries to us at ConverDyn.  Q. ConverDyn in Canada?  A. In the United States.  Q. In the United States. Where in the United States?  A. The very southern tip of Illinois.  Q. So the physical concentrate was being actually shipped to UG in France?
24 1 2 3 4 01:47:00 5 6 7 8 9 01:47:10 10 11 12	A. Uh-huh.  Q. And, you know, I think for our present purposes, the informal translation is adequate. I just have a few questions about some of the references within the letter.  MR. CROKE: And just before you do that, I just want the record to reflect that we've had no chance to confirm whether or not this is a correct interpretation.  MR. SUMMIT: I appreciate that. And you reserve all rights  MR. CROKE: Yes.  MR. SUMMIT: in connection with this	24 1 2 3 4 01:50:12 5 6 7 8 9 01:50:24 10 11 12	delivery was transpiring.  A. Right. So SOPAMIN was going to make arrangements to deliver to UG in France, and UG was going to make deliveries to us at ConverDyn.  Q. ConverDyn in Canada?  A. In the United States.  Q. In the United States. Where in the United States?  A. The very southern tip of Illinois.  Q. So the physical concentrate was being actually shipped to UG in France?  A. Correct. At the time of this letter,
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#### CONTAINS CONFIDENTIAL PORTIONS The Export Import Bank, et al. v. Republique du Niger

11/11/2014

19 (Pages 70 to 73)

			19 (Pages /U to /3)
	70		72
1	A. I don't know that.	1	Q. No, that was the next question.
2	Q. Okay. All right.	2	Why was he forwarding you invoices from
3	MR. SUMMIT: Okay. Moving along, we	3	SOPAMIN?
4	are going to mark Production Page 92 as	4	A. I would be speculating. I think it had
01:58:08 5	Exhibit 9.	02:01:46 5	to do with Moussa being marginally conversant in
6	(WHEREUPON, Nevling Dep Ex No. 9	6	English.
7	was marked for ID, as of $11/11/14.$ )	7	Q. Okay. Makes sense.
8	BY MR. SUMMIT:	8	Now, you'll see at Page 180
9	Q. Now this is November 6, 2007, and the	9	A. Yeah.
01:58:40 10	letter we were just looking at was dated	02:02:06 10	Q a document. Was this a document
11	November 1, 2007.	11	that was attached to the email from Moussa?
12	So this is does this refer to the	12	A. There's no real way to tell, but
13	same transaction? Does this letter that we just	13	Q. Well, let's put it this way: Was this
14	marked, the November 6th of 2007 letter, refer to	14	to the best of your recollection a bill for
01:58:56 15	the same transaction?	02:02:34 15	payment to SOPAMIN?
16	A. Almost certainly.	16	A. So it appears to be.
17	Q. Yeah. What is the role of it makes	17	Q. Okay. And you'll see that at the top,
18	reference to Honeywell's Metropolis facility.	18	it says, "Republique Du Niger, Ministere des Mines
19	A. Uh-huh.	19	et de l'Energie." And then it goes on to say,
01:59:10 20	Q. I take it that's something different	02:03:06 20	"Societe de Patrimoine des Mines du Niger."
21	from the ConverDyn conversion center?	21	Is this to the best of your
22	A. No.	22	recollection the form in which the invoice came to
23	Q. It's the same?	23	you?
24	A. It is one in the same.	24	A. I don't have a specific recollection,
	71		73
1	Q. Ah, okay. That clarifies a little	1	but it's it's possible, I suppose.
2	mystery.	2	Q. But you have no reason to doubt that
3	MR. SUMMIT: Okay. Now let's look at	3	this is the form in which it came to you?
4	Production Pages 179 through 182.	4	A. No.
02:00:00 5	MS. FAHEY: 183.	02:03:42 5	Q. Okay. You'll see below in this sort of
6	MR. SUMMIT: That's fine, too.	6	address area, it says, "Contact." Perhaps it
7	Let's mark this as the next	7	means contract?
8	exhibit.	8	A. Oh, yeah.
9	(WHEREUPON, Nevling Dep Ex No. 10,	9	Q. And "Release" and "CPA."
02:00:46 10	was marked for ID as of 11/11/14.)	02:04:04 10	A. Those are go ahead and ask your
11	BY MR. SUMMIT:	11	question.
12	Q. Now, the first document is an email	12	Q. Was this a contract number that
13	that seems to go to you from Harouna, Moussa.	13	referred over to the first contract that we were
14	Who is he?	14	looking at earlier, the contract of 2007?
02:00:58 15	A. Moussa is Benoit's man	02:04:18 15	A. Yes. Those are our internal Exelon
16	Q. Oh, yes.	16	payment system numbers.
17	A in Niger.	17	Q. Okay. And does "Release 1" refer to a
18	Q. He says to you in this email, "Hi,	18	sequence of releases of uranium concentrate?
19	James. Here the bills for payment to SOPAMIN.	19	A. Yeah, individual deliveries.
02:01:18 20	Best regards, Moussa."	02:04:38 20	Q. Got you. And what does "CPA" stand
21	Why was he forwarding you invoices	21	for?
22	from SOPAMIN?	22	A. Contract Payment Authorization.
23	A. Yeah I'm sorry. Was the question	23	Q. I see.
23	and the second of the second o		
23	why?	24	And the payment arrangements, do you